IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Crl.MC.No. 3432 of 2007()

CP.143/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NEDUMKANDOM
CRIME NO.180/2005 OF NEDUMKANDOM POLICE STATION

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PETITIONER:

RAJESH, S/O.JANARDHANAN,
MANGALATHU PUTHEN VEETTIL,
KALKOONTHAL VILLAGE,
UDUMBANCHOLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTIONS,
HIGH COURT OF KERALA,ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
NEDUMKANDOM POLICE STATION,
IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3432 of 2007

Dated this the 15th day of November 2007

O R D E R

The petitioner is the third accused and he faces indictment in a prosecution for offences punishable under Sections 447 and 307 read with 34 I.P.C. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered.

2. The petitioner was not arrested at the crime stage. The petitioner has not so far appeared before the learned Magistrate. Coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds a warrant of arrest chasing him.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself. The application for bail shall be considered in the light of the decision in Sukumari v. State of Kerala [2001(1)KLT 22]).

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007